

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL MIATA,)	
)	Civil Action
Plaintiff,)	No. 1:19-cv-04918-MHC
v.)	
)	
BOTTOMS UP RESTAURANT)	JURY TRIAL DEMANDED
GROUP, LLC d/b/a WRAITH,)	
)	
Defendant.)	
)	

RENEWED MOTION FOR CLERK’S ENTRY OF DEFAULT

COMES NOW, Plaintiff Michael Miata (“Plaintiff”), by and through undersigned counsel, and hereby moves the Court – pursuant to Fed. R. Civ. P. 55(a) and LR 83.1E(2)(b)(I) & 83.1E(4), ND Ga. – for a Renewed Motion for Clerk’s Entry of Default against Defendant Bottoms Up Restaurant Group, LLC (“Defendant”).

1. Plaintiff filed his Complaint for Damages against Defendant Bottoms Up Restaurant Group, LLC on October 31, 2019. [Doc. 1].

2. Defendant was served by and through its Registered Agent, Betty Whitaker¹ at 2233 Addison Park, Riverdale, Georgia 30296 on November 7, 2019. [Doc. 3]. At the time of service, this was the listed name and physical address of Defendant's Registered Agent per the Georgia Secretary of State Corporations Division website.²
3. On January 2, 2020, Plaintiff filed a Motion for Entry of Default based on Defendant's failure to respond to the Complaint that was due on or before November 28, 2019.³ [Doc. 6].
4. On January 3, 2020, the Clerk of Court entered default as to Defendant.
5. Plaintiff filed his Motion for Default Judgment on February 6, 2020. [Doc. 7].
6. On April 29, 2020, the Court denied Plaintiff's Motion for Default Judgment. [Doc. 10]. As grounds therefore, the Court noted that the address for Defendant's Registered Agent had changed in Defendant's 2020 Annual Registration. *Id.* at 3.

¹ Plaintiff acknowledges that service was addressed to "Bett" Whitaker.

² Business Search for Bottoms Up Restaurant Group, LLC, Georgia Corporations Division, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=2246186&businessType=Domestic%20Limited%20Liability%20Company&fromSearch=True> (selecting "Filing History" and "Annual Registration (2019)") (last visited September 17, 2020).

³ Due to a typo, the due date listed in the original Motion for Entry of Default was identified as November 21, 2019.

7. On May 5, 2020, Defendant was again served with a copy of Plaintiff's Complaint, this time at the new address for Defendant's Registered Agent. Service was addressed to Betty Whitaker at 5023 Old National Hwy, College Park, Georgia 30349, the Defendant's current listed Registered Agent and physical address according to the Georgia Secretary of State Corporations Division website.⁴ [Doc. 15]
8. Service was accepted by Tiffany Crisp, a person employed by Defendant and authorized to accept service for Defendant, at her usual place of work at 5021 Old National Highway, College Park, Georgia 30349. [Doc. 15].
9. Defendant's response to Plaintiff's Complaint was due on or before May 26, 2020. [Doc. 15]. To date, Defendant has not filed a responsive pleading to Plaintiff's Complaint and is therefore in default.

⁴ Business Search for Bottoms Up Restaurant Group, LLC, Georgia Corporations Division, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=2246186&businessType=Domestic%20Limited%20Liability%20Company&fromSearch=True> (last visited September 17, 2020).

WHEREFORE, Plaintiff respectfully moves this Court for a Renewed Entry of Default against Defendant Bottoms Up Restaurant Group, LLC.

Respectfully submitted this 21st day of September 2020.

BARRETT & FARAHANY

/s/ Benjamin A. Stark

V. Severin Roberts

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CERTIFICATE OF SERVICE

I certify that on this day I filed the foregoing Renewed Motion for Clerk's Entry of Default with the Clerk of Court using the CM/ECF filing system which will send notification of such filing to all attorneys of record and sent a copy via First Class Mail to the registered agent as follows:

Bottoms Up Restaurant Group, LLC d/b/a Wraith
Betty Whitaker, Registered Agent
5023 Old National Hwy.
College Park, GA 30349

This 21st day of September 2020.

BARRETT & FARAHANY

/s/ Benjamin A. Stark
Benjamin A. Stark
Georgia Bar No. 601867